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D.R. Horton, Inc., DHI Mortgage Company, Ltd.,
Donald Horton, Donald Tomnitz, Michael Mason,
Daniel Callihan, Annie Schankin and James Frasure

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

PATRICE A. MISSUD, JULIE D.
MISSUD,

Plaintiff,

vs.

D.R. HORTON, INC.; DHI MORTGAGE
COMPANY, LTD, LP.; DONALD
HORTON; DONALD TOMNITZ;
MICHAEL MASON; DANIEL
CALLIHAN; ANNIE SCHANKIN;
JAMES FRASURE; and DOES 1-200,

Defendants.

Case No. C07-2625 JL

**DEFENDANTS' OBJECTIONS TO
PLAINTIFFS' EVIDENCE IN
OPPOSITION TO MOTION TO DISMISS**

[Fed. R. Civ. Proc. 12(b)(2), (6)]

Date: September 19, 2007
Time: 9:30 a.m.
Judge: Hon. James Larson

Defendants D.R. Horton, Inc., DHI Mortgage Company, Ltd., Donald Horton, Donald Tomnitz, Michael Mason, Daniel Callihan, Annie Schankin and James Frasure (“Defendants”) hereby submit their objections to the following evidence submitted by plaintiffs Patrice A. Missud and Julie D. Missud (“Plaintiffs”) in opposition to Defendants’ Motion to Dismiss.

I. OBJECTIONS TO EVIDENCE SUMMITTED BY PLAINTIFFS

PLAINTIFFS’ EVIDENCE:	OBJECTIONS TO EVIDENCE:
1. <i>“At page 4, lines 5-24, Judge Busch implied that but for the technicality that his instant ruling would close case 499, he would have considered as evidence an additional 40 California consumers who had been systematically and continuously contacted to prove minimum contacts.” Declaration of Patrick Missud in Opposition of Motion to Dismiss (“Missud Decl.”), ¶4.</i>	1. Irrelevant; Lack of Foundation/Personal Knowledge; Inadmissible Opinion/Expert Testimony; Hearsay. Federal Rules of Evidence (“Fed. R. Evid.”) 401, 402, 602, 702, 703 and 802; <i>McHugh v. United Service Automobile Ass’n</i> (9th Cir. 1999) 164 F.3d 451, 454 (declarations containing inadmissible opinion as to issues of law must be disregarded).
2. <i>“True and correct copies of emails indicating that the authoring D R Horton consumers have been defrauded as recently as August 2007 are appended as Exhibit 4.” Missud Decl., ¶5 and Exhibit 4 thereto.</i>	2. Irrelevant; Lack of Foundation/Personal Knowledge; Inadmissible Opinion/Expert Testimony; Hearsay. Fed. R. Evid. 401, 402, 602, 702, 703 and 802; <i>McHugh, supra</i> , 164 F.3d at 454 (declarations containing inadmissible opinion as to issues of law must be disregarded).
3. Missud Decl., Exhibit 6.	3. Irrelevant; Lack of Foundation/Personal Knowledge; Inadmissible Opinion/Expert Testimony; Hearsay. Fed. R. Evid. 401, 402, 602, 702, 703 and 802; <i>McHugh, supra</i> , 164 F.3d at 454 (declarations containing inadmissible opinion as to issues of law must be disregarded).
4. Missud Decl., Exhibit 8.	4. Irrelevant; Hearsay. Fed. R. Evid. 401, 402 and 802.

PLAINTIFFS' EVIDENCE:	OBJECTIONS TO EVIDENCE:
<p>5. Missud Decl., Exhibit 9.</p>	<p>5. Irrelevant; Hearsay. Fed. R. Evid. 401, 402 and 802.</p>
<p>6. Missud Decl., Exhibit 10.</p>	<p>6. Irrelevant; Hearsay. Fed. R. Evid. 401, 402 and 802.</p>
<p>7. <i>“Through my web sites and other available means, approximately ten D R Horton insiders have been located who have verified the myriad frauds and misrepresentations including interest rate manipulation, RESPA violations, fraudulent inducement, deceptive business practices, antitrust-tying, coercion, falsifying governmental documents, and many other varieties of mortgage fraud. Many, if not all of these insiders have offered additional contacts for victims of D R Horton fraud and misrepresentation.”</i> Missud Decl., ¶12.</p>	<p>7. Irrelevant; Lack of Foundation/Personal Knowledge; Inadmissible Opinion/Expert Testimony; Hearsay. Fed. R. Evid. 401, 402, 602, 702, 703 and 802; <i>McHugh, supra</i>, 164 F.3d at 454 (declarations containing inadmissible opinion as to issues of law must be disregarded).</p>
<p>8. <i>“Through my web sites and other available means, approximately a dozen mortgage and real estate brokers who have dealt with D R Horton have verified the myriad frauds and misrepresentations including interest rate manipulation, RESPA violations, fraudulent inducement, deceptive business practices, antitrust-tying, coercion, falsifying governmental documents, and many other varieties of mortgage fraud. Many, if not all of these professionals have offered additional contacts for victims of D R Horton fraud and misrepresentation.”</i> Missud Decl., ¶13.</p>	<p>8. Irrelevant; Lack of Foundation/Personal Knowledge; Inadmissible Opinion/Expert Testimony; Hearsay. Fed. R. Evid. 401, 402, 602, 702, 703 and 802; <i>McHugh, supra</i>, 164 F.3d at 454 (declarations containing inadmissible opinion as to issues of law must be disregarded).</p>

PLAINTIFFS' EVIDENCE:	OBJECTIONS TO EVIDENCE:
<p>9. Supplemental Declaration of Patrick Missud in Opposition of Motion to Dismiss, ¶2 and Exhibit thereto.</p>	<p>9. Irrelevant; Lack of Foundation/Personal Knowledge; Inadmissible Opinion/Expert Testimony; Hearsay.</p> <p>Fed. R. Evid. 401, 402, 602, 702, 703 and 802; <i>McHugh, supra</i>, 164 F.3d at 454 (declarations containing inadmissible opinion as to issues of law must be disregarded).</p>

Respectfully submitted.

Dated: September 5, 2007

WENDEL, ROSEN, BLACK & DEAN LLP

By: /s/Gillian M. Ross

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